

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

FIELDTURF USA, INC.
5211 Mitchell Bridge Road
Dalton, Georgia 30721

-and-

FIELDTURF TARKETT INC.
8088 Montview Road
Town of Mount Royal Quebec
Canada, H4P2L7

Plaintiffs,

v.

SPORTS CONSTRUCTION GROUP, LLC
1406 West Sixth Street
Suite 200
Cleveland, Ohio 44113

-and-

PAUL FRANKS
1406 West Sixth Street
Suite 200
Cleveland, Ohio 44113

Defendants.

CASE NO.: 1:06CV2624

JUDGE PATRICIA A. GAUGHAN

**FIELDTURFS' (PROPOSED)
CASE MANAGEMENT PLAN**

The parties attempted, in good faith, to propose a joint discovery schedule for the Court's consideration at the Case Management Conference on December 19, 2006. Unfortunately, the parties could not come to an agreement on a recommended track and a recommended discovery plan due to the issues associated with, for example, a *Markman* Hearing, and associated protocol. As such, the parties have agreed to separately propose and file their respective discovery plan for the Court's consideration.

FieldTurf submits the following below.

1. Recommended Discovery Plan:

(a) Describe the subjects on which discovery is to be sought and the nature and extent of discovery.

FieldTurf believes that discovery will be conducted in the form of Interrogatories, Requests for Production of Documents and Things, Requests for Admission, and Depositions. FieldTurf also believes that the subjects of discovery will be issues relevant to alleged infringement, validity, enforcement of the '689 and '752 patents and any damages resulting therefrom.

As discussed in Paragraph 3 of the **JOINT REPORT OF THE PARTIES PLANNING AND MEETING UNDER FED.R.CIV.P.26(F) AND LOCAL RULE 16.3(B)** (Docket No.), FieldTurf believes this case should be assigned to the standard track with discovery to last no less than twelve months. Defendants, on the other hand, propose the standard track but suggest their discovery plan to proceed in accordance with the Local Patent Rules adopted by the U.S. District Court, Northern District of California ("N.D. Cal. Patent Rules") and they expect the entire Case to be completed within twelve months, including trial. However, the N.D. Cal. Patent Rules are not suitable for this particular Case as the Rules contemplate that discovery should be completed in less than seven months. FieldTurf also believes that the N.D. Cal. Patent Rules are too aggressive for the present Case -- especially since two patents are at issue and because FieldTurf believes information from foreign parties will be needed. Such an aggressive discovery plan is unreasonable and impractical in this Case and imposes a significant burden on FieldTurf.

FieldTurf believes that the case management schedule it proposes is consistent with other patent cases litigated before this particular Court. As such, rather than acquiescing to

Defendants' proposal to follow the N.D. Cal. Patent Rules, FieldTurf believes a discussion at the Conference could effectively resolve this issue. Because the Case involves two patents, FieldTurf believes that extensive discovery will likely be required from Defendants and from multiple third parties. FieldTurf believes that Defendants' proposed schedule does not account for such extensive discovery. Instead, FieldTurf believes Defendants' proposed schedule is an attempt to impose a significant burden on FieldTurf as such schedule does not permit sufficient time for FieldTurf to conduct appropriate discovery relating to the '689 and '752 patents. In addition, discovery from a third party will potentially involve a foreign company in the United Kingdom, namely, TigerTurf. FieldTurf believes that TigerTurf may have supplied artificial turf products to Defendants. As such, some information relating to the subject matter of this suit may be in the possession, custody or control of TigerTurf in the United Kingdom.

FieldTurf intends to seek discovery on at least the following issues:

FieldTurf will seek to conduct discovery (a) into whether additional parties are necessary to this action; (b) into the structure and composition of Defendants' artificial turf products; (c) into third parties to whom Defendants have sold or bought their artificial turf products; (d) into whether Defendants' alleged infringement of the '689 and '752 patents were willful; (e) into the extent of any potential damage recoveries with respect to Defendants' alleged infringement of the '689 and '752 patents, such as financial information, including, but not limited to the sales, costs and profits associated with Defendants' sales of their allegedly infringing artificial turf product; and (f) concerning any testifying expert(s). FieldTurf reserves the right to conduct discovery into additional matters based upon information subsequently obtained through discovery or otherwise.

Based on the above, FieldTurf believes the parties should be permitted to follow the standard track; and the dates proposed below by FieldTurf reflect these facts.

| Item | Event | FieldTurf's Proposed Deadlines |
|------|---|--------------------------------|
| 1. | Fact discovery cut-off | December 19, 2007 |
| 2. | Preliminary Infringement Contentions | January 10, 2007 |
| 3. | Status hearing | April 5, 2007 |
| 4. | Last day to amend pleadings and/or add additional parties | April 28, 2007 |
| 5. | Expert Report on issues for which party bears burden | November 19, 2007 |
| 6. | Rebuttal expert reports | December 19, 2007 |
| 7. | Expert discovery cut-off | January 18, 2008 |
| 8. | Dispositive Motions Due | February 19, 2008 |
| 9. | Responsive Motions Due | March 11, 2008 |
| 10. | Reply Memorandum Due | March 25, 2008 |
| 11. | Final Pre-Trial | TBD |
| 12. | Trial | TBD |

Respectfully submitted,

Dated: December 13, 2006

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*Attorneys for Plaintiffs FieldTurf USA, Inc.
and FieldTurf Tarkett Inc.*

CERTIFICATE OF SERVICE

I, Jody L. Factor hereby certify that on this 13th of December, 2006, a copy of the foregoing document entitled, **“FIELDTURFS’ (PROPOSED) CASE MANAGEMENT PLAN”** was filed electronically. Notice of this filing will be sent by operation of the Court’s electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court’s system.

s/ Jody L. Factor
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